

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jean Paul Lozada	Team: Squad #2	CCRB Case #: 201904155	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/08/2019 3:20 PM	Location of Incident: [REDACTED]	Precinct: 120	18 Mo. SOL 11/8/2020	EO SOL 6/25/2021	
Date/Time CV Reported Wed, 05/08/2019 6:00 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 05/14/2019 10:58 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POF Ebony Glover	23785	928383	120 PCT
2. POM Giancarlo Maratea	06488	958871	120 PCT
3. POM Salvatore Melfa	08994	953098	120 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Yekaterina Acosta	809	948140	120 PCT
2. POM Jonvincent Testaccio	17571	953477	120 PCT
3. POM Daniel Magee	24881	943507	MED DIV
4. SGT Sean Mchugh	00441	949305	120 PCT
5. POF Mary Gillespie	29378	950497	120 PCT
6. POM Joseph Schneider	31685	953383	120 PCT
7. DTS Steven Lopez	4354	943498	120 PCT
8. POF Vanessa Sherlock	15588	944655	120 PCT
9. POM Mario Avenoso	16221	957343	120 PCT
10. POF Estefanie Vazquezcontreras	11072	962149	PBSI
11. POM Timothy Chi	29493	939997	120 PCT
12. POF Gabrielle Bourgelais	11407	965955	120 PCT
13. POM Cole Lee	14240	966158	120 PCT
14. POM William Dawson	02588	955858	120 PCT
15. POM Andrew Pereiro	19041	959062	120 PCT
16. POM Eric Johnson	07704	956777	120 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
17. POM Cory Pilzer	09302	953254	120 PCT
18. POM Joseph Pascone	4029	959878	120 PCT
19. POM Christophe Macpherson	08720	953031	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Ebony Glover	Force: At § 87(2)(b) in Staten Island, Police Officer Ebony Glover used physical force against § 87(2)(b)	
B.POF Ebony Glover	Force: At § 87(2)(b) in Staten Island, Police Officer Ebony Glover used physical force against § 87(2)(b)	
C.POF Ebony Glover	Discourtesy: At § 87(2)(b) in Staten Island, Police Officer Ebony Glover spoke discourteously to § 87(2)(b)	
D.POM Giancarlo Maratea	Force: At § 87(2)(b) in Staten Island, Police Officer Giancarlo Maratea used physical force against § 87(2)(b)	
E.POM Giancarlo Maratea	Force: At § 87(2)(b) in Staten Island, Police Officer Giancarlo Maratea used a chokehold against § 87(2)(b)	
F.POM Giancarlo Maratea	Force: At § 87(2)(b) in Staten Island, Police Officer Giancarlo Maratea restricted § 87(2)(b)'s breathing.	
G.POM Salvatore Melfa	Force: At § 87(2)(b) in Staten Island, Police Officer Salvatore Melfa used physical force against § 87(2)(b)	
H.POM Giancarlo Maratea	Discourtesy: At the 120th Precinct stationhouse, Police Officer Giancarlo Maratea spoke discourteously to § 87(2)(b)	
I.POM Giancarlo Maratea	Discourtesy: At the 120th Precinct stationhouse, Police Officer Giancarlo Maratea spoke discourteously to § 87(2)(b)	
J.POM Giancarlo Maratea	Abuse: At the 120th Precinct stationhouse, Police Officer Giancarlo Maratea refused to provide his name to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On May 8, 2019, § 87(2)(b) filed this complaint on behalf of her § 87(2)(b)-year-old son, § 87(2)(b) and his § 87(2)(b)-year-old schoolmate, § 87(2)(b) with the Internal Affairs Bureau via telephone, generating IAB log number 19-18358 (Board Review 01). IAB referred this case to the CCRB, where it was received on May 14, 2019. The case was initially assigned to Inv. Henry Oliver. On July 12, 2019, it was reassigned to Inv. Emily Hebert. On August 14, 2019, it was reassigned to Inv. Georgia Rochon. On November 21, 2019, it was reassigned to SI Jean-Paul Lozada.

On May 8, 2019, at approximately 3:20 p.m., § 87(2)(b) and their § 87(2)(b)-year-old schoolmate § 87(2)(b) were in a large group of students that gathered at § 87(2)(b), a public plaza at § 87(2)(b) in Staten Island, to watch a fight between other students. Police Officer Ebony Glover of the 120th Precinct attempted to issue a summons to § 87(2)(b) for smoking marijuana, but § 87(2)(b) walked away while carrying § 87(2)(b)'s backpack, and Police Officer Glover called for backup. Officers attempted to place § 87(2)(b) under arrest, and a struggle ensued over § 87(2)(b)'s backpack. § 87(2)(b) attempted to grab her backpack from Police Officer Glover, who then punched § 87(2)(b)'s hand as it gripped the backpack (**Allegation A – Force: Physical Force**, § 87(2)(g)). § 87(2)(b) placed his hand over § 87(2)(b)'s, and Police Officer Glover punched § 87(2)(b)'s hand and face (**Allegation B – Force: Physical Force**, § 87(2)(g)). Police Officer Glover used profanities during this struggle (**Allegation C – Discourtesy: Word**, § 87(2)(g)). Police Officer Giancarlo Maratea allegedly pushed § 87(2)(b) against a fence (**Allegation D – Force: Physical Force**, § 87(2)(g)). Police Officer Maratea then allegedly punched § 87(2)(b) in his face three times and brought him to the ground (**within Allegation D**), and then allegedly stepped on the back of § 87(2)(b)'s neck (**Allegation E – Force: Chokehold, Allegation F – Force: Restricted Breathing**, § 87(2)(g)). Police Officer Melfa grabbed § 87(2)(b)'s arm, and § 87(2)(b) kicked him in his knee. Police Officer Melfa then allegedly punched § 87(2)(b) in her face and brought her to the ground (**Allegation G – Force: Physical Force**, § 87(2)(g)).

§ 87(2)(b) and § 87(2)(b) were arrested and taken to the 120th Precinct stationhouse. At the stationhouse, § 87(2)(b) asked Police Officer Maratea what happened to his bandaged hand, and he allegedly replied, “One of you idiots did this to me.” (**Allegation H – Discourtesy: Word**, § 87(2)(g)). § 87(2)(b) asked Police Officer Maratea if he punched her in the face, and he allegedly replied, “If I punched you in the face, you’d look like him” and pointed to § 87(2)(b) whose face was swollen from being punched (**Allegation I – Discourtesy: Word**, § 87(2)(g)). § 87(2)(b) allegedly asked Police Officer Maratea for his name, and he did not respond (**Allegation J – Abuse of Authority: Refusal to Provide Name**, § 87(2)(g)).

§ 87(4-b), § 87(2)(g)

Body-worn camera (BWC) footage was obtained from the BWCs of Police Officers Maratea, Melfa, Cole Lee, Mary Gillespie, Gabrielle Bourgelais, Andrew Pereiro, William Dawson, Edward Perez, Vanessa Sherlock, Mario Avenoso, Timothy Chi, Cory Pilzer, Christopher MacPherson, Joseph Pascone, Kevin Vega, and Nick Ou of the 120th Precinct (Board Review 02/IA #277, summarized in Board Review 03-05/IA#227, 273, 279). Footage was obtained from a TARU camera located at § 87(2)(b) (Board Review 06).

Findings and Recommendations

Allegation (A) – Force: At § 87(2)(b) in Staten Island, Police Officer Ebony Glover used physical force against § 87(2)(b)

Allegation (G) – Force: At § 87(2)(b) in Staten Island, Police Officer Salvatore Melfa used physical force against § 87(2)(b)

§ 87(2)(b) was interviewed on June 24, 2019 (Board Review 07) and provided a follow-up telephone statement on February 26, 2021 (Board Review 27). § 87(2)(b) was interviewed on July 29, 2019 (Board Review 08). Witnesses § 87(2)(b) and § 87(2)(b) provided telephone statements on September 25, 2019 (Board Review 09, 10). Police Officer Glover was interviewed on October 25, 2019 (Board Review 11). Police Officer Maratea was interviewed on January 14, 2020 (Board Review 12). Police Officer Melfa was interviewed on February 6, 2020 (Board Review 13). Police Officer Sherlock was interviewed on September 14, 2020 (Board Review 14). Police Officer Mario Avenoso and Police Officer Cole Lee were interviewed on September 22, 2020 (Board Review 15, 16). Police Officer Daniel Magee was interviewed on September 29, 2020 (Board Review 17). Attempts were made to reach § 87(2)(b) and § 87(2)(b) but the investigation was unable to obtain statements from them.

It is undisputed that as the officers placed § 87(2)(b) under arrest, officers took possession of § 87(2)(b)'s backpack from him. § 87(2)(b) attempted to grab her backpack from an officer, and a struggle ensued over the backpack. Police Officer Glover punched § 87(2)(b)'s hand as it gripped the backpack, and § 87(2)(b) then kicked Police Officer Glover in her pelvis. It is also undisputed that as the officers held § 87(2)(b)'s arms, she kicked Police Officer Melfa's knee, and that § 87(2)(b) was then brought to the ground and handcuffed.

§ 87(2)(b) stated that she and many other high school students gathered at the scene to watch several fights when officers responded. As she saw the officers confront § 87(2)(b) for smoking marijuana, she saw Police Officer Glover holding her backpack. § 87(2)(b)'s friend, § 87(2)(b) had been holding her backpack, and § 87(2)(b) she did not know how Police Officer Glover got her backpack. § 87(2)(b) approached Police Officer Glover and grabbed her backpack, and Police Officer Glover told § 87(2)(b) to let go of the bag and punched her hand "a few" times. § 87(2)(b) kicked Police Officer Glover in the stomach with her left foot, and then other officers pulled § 87(2)(b) away from Police Officer Glover and placed her against a fence. Police Officer Melfa held § 87(2)(b)'s arms but was not attempting to handcuff her. § 87(2)(b) kicked Police Officer Melfa's knee. Police Officer Melfa then punched § 87(2)(b) above her right eye, causing swelling. Police Officer Melfa then grabbed § 87(2)(b)'s arms and brought her down to the ground. § 87(2)(b) landed in a prone position and scraped her hands. Police Officer Melfa then handcuffed § 87(2)(b).

§ 87(2)(b) stated that § 87(2)(b) was in possession of § 87(2)(b)'s backpack as Police Officer Glover attempted to arrest § 87(2)(b). The backpack fell from § 87(2)(b)'s shoulder to the ground, and § 87(2)(b) picked it up. Police Officer Glover told § 87(2)(b) to let go of the backpack and repeatedly punched § 87(2)(b)'s hand. § 87(2)(b) did not mention seeing § 87(2)(b) again until she was inside a police vehicle. He saw her at the stationhouse with a bandage on one of her eyes, but he made no mention of seeing § 87(2)(b) being punched or taken to the ground.

§ 87(2)(b) and § 87(2)(b) who called 911 to report the fighting students (Board Review 18), did not see the officers arrest anyone or use any force.

Police Officer Melfa's BWC Footage (Board Review 02) begins with Police Officer Melfa and other officers placing § 87(2)(b) under arrest. § 87(2)(b) appears to attempt to kick and pull away from the officers while they attempt to apprehend her. The officers appear to bring § 87(2)(b) to the ground, but how they do so is unclear. At runtime 00:18, Police Officer Melfa appears to handcuff § 87(2)(b) while she is on the ground.

None of the BWC footage received for this incident captures § 87(2)(b) being punched.

Police Officer Glover stated that she saw § 87(2)(b) and an unknown officer struggling over a backpack, and the officer told § 87(2)(b) to let go of the backpack. Police Officer Glover approached them and punched § 87(2)(b)'s hand multiple times because she refused to let go of the bag. § 87(2)(b) then kicked Police Officer Glover in the pelvis twice. Police Officer Glover did not recall what happened after § 87(2)(b) kicked her.

In the TRI Worksheet she prepared for § 87(2)(b) (Board Review 19), Police Officer Glover indicated that § 87(2)(b) pulled her hands away and held onto a fence to avoid being handcuffed, and that she used a hand strike to remove § 87(2)(b)'s hands from the fence.

Police Officer Melfa stated that he saw Police Officer Sherlock and Police Officer Avenoso attempting to arrest § 87(2)(b) who was attempting to pull away from them. He approached them and attempted to help them bring § 87(2)(b)'s arms behind her back, and § 87(2)(b) immediately kicked him in his right knee. Police Officer Melfa first stated that after § 87(2)(b) kicked him, he brought her down to the ground and placed her into custody, but he later stated that he did not recall which officer brought her down to the ground or how she was brought to the ground. Police Officer Melfa did not recall himself or any other officer punching anyone.

In the TRI Worksheet he prepared for § 87(2)(b) (Board Review 19), Police Officer Melfa indicated that § 87(2)(b) used a foot strike, flailed her arms and pulled them in front of her body to avoid being handcuffed, causing him to sustain minor swelling and substantial pain. Police Officer Melfa indicated that he used a forcible takedown against § 87(2)(b).

Police Officer Avenoso and Police Officer Sherlock did not see Police Officer Melfa punch § 87(2)(b).

Patrol Guide Procedure 221-01 (Board Review 20) allows officers to use force when it is reasonable to ensure the safety of a member of the service, or when it is reasonable to place a person in custody. Factors to be considered in determining whether the use of force is reasonable include the following: the nature and severity of the crime/circumstances; actions taken by the subject; duration of the action; immediacy of the perceived threat or harm to the subject; members of service or bystanders; whether the subject is actively resisting custody; whether the subject is attempting evade arrest by flight; the number of subjects in comparison to the number of members of service; size, age and condition of the subject in comparison to the member of service; subject's violent history if known; presence of hostile crowd or agitators; and whether the subject is apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase likelihood of violence.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) – Force: At § 87(2)(b) in Staten Island, Police Officer Ebony Glover used physical force against § 87(2)(b)
Allegation (C) – Discourtesy: At § 87(2)(b) in Staten Island, Police Officer Ebony Glover spoke discourteously toward § 87(2)(b)
Allegation (D) – Force: At § 87(2)(b) in Staten Island, Police Officer Giancarlo Maratea used physical force against § 87(2)(b)
Allegation (E)– Force: At § 87(2)(b) in Staten Island, Police Officer Giancarlo Maratea used a chokehold against § 87(2)(b)
Allegation (F) – Force: At § 87(2)(b) in Staten Island, Police Officer Giancarlo Maratea restricted § 87(2)(b) s breathing.

§ 87(2)(b) stated that after Police Officer Glover punched § 87(2)(b) s hand (**Allegation A**), he placed his hand over § 87(2)(b) s in order to protect her, and then Police Officer Glover punched his hand and cursed at him, but he did not recall what she said. (Police Officer Glover later told § 87(2)(b) that she had punched him in the face, but he had no memory of this.) Police Officer Maratea then pushed § 87(2)(b) against a metal gate, causing pain to his back. § 87(2)(b) attempted to move away from the gate due to the pain, at which point Police Officer Maratea punched him in the left side of his face three times in a row while another officer held him against the gate, resulting in a swelling to his forehead and a cut underneath his left eye. Police Officer Maratea “threw” § 87(2)(b) down to the ground and landed on his hands and knees. Police Officer Maratea then stepped on the back of § 87(2)(b) s neck for approximately one minute, during which time § 87(2)(b) “could hardly breathe” and was unable to speak.

§ 87(2)(b) stated that after she was arrested, Police Officer Glover told her that she punched § 87(2)(b) in the face because he tried to hit her, but § 87(2)(b) did not see this. She did not mention seeing any instances of force against § 87(2)(b) did not believe any officer used profanities during this incident.

As previously discussed, § 87(2)(b) and § 87(2)(b) did not see the officers arrest anyone or use any force.

A photograph linked to the TRI Worksheet that Police Officer Daniel Magee prepared for § 87(2)(b) (Board Review 19) shows swelling around § 87(2)(b) s left eye.

At runtime 00:30 of Police Officer Cole Lee’s BWC Footage (Board Review 02), lots of shouting is heard, and § 87(2)(b) and numerous officers appear to struggle over a backpack. Police Officer Lee and several other officers tell § 87(2)(b) to let go of the bag. At runtime 00:54, Police Officer Glover appears to punch § 87(2)(b) s hand while it grips the bag. Police Officer Glover shouts, “Get off of the fucking bag! Move! Let go of the fucking bag.”

At runtime 00:08 of Police Officer Maratea's BWC Footage (Board Review 02), Police Officer Maratea is standing directly in front of § 87(2)(b). Officers appear to be attempting to take a backpack from § 87(2)(b). Police Officer Glover approaches from the left and appears to punch § 87(2)(b) twice, but where these punches land is not seen. Police Officer Maratea's BWC twice falls to the ground during the struggle, and he is not seen punching § 87(2)(b) bringing him to the ground, or stepping on his neck.

Police Officer Glover stated that as the officers attempted to arrest § 87(2)(b) Mr. § 87(2)(b) approached the officers, grabbed her hand as it held onto the backpack § 87(2)(b) was carrying, and attempted to remove her hand from the backpack. Police Officer Glover instructed § 87(2)(b) to let go of the bag, and then she punched the side of his jaw because he would not let go of her hand and the bag. § 87(2)(b) continued to hold on to her hand and the bag, and she hit § 87(2)(b) again on the right side of his face because he was not breaking his grip. Police Officer Glover stated that she "absolutely" cursed at § 87(2)(b) while he was attempting to take the bag from his possession, but that she could not recall what she said. She stated that she cursed because § 87(2)(b) was cursing at her and interfered with § 87(2)(b)'s arrest because he would not let go of the bag. She stated she was "quite sure" she said "fuck" at least once or twice, and that she was scared and angry. § 87(2)(b) let go of Police Officer Glover's hand and the bag. Police Officer Glover saw § 87(2)(b) swung his fist at another officer after letting go of the bag, and she heard him get hit by Police Officer Maratea, who then brought him down to the ground.

In the TRI Worksheet she prepared for § 87(2)(b) (Board Review 19), Police Officer Glover indicated that § 87(2)(b) grabbed her to prevent her from arresting another individual, and that she used a hand strike against him.

Police Officer Maratea stated that as he approached the scene, he saw § 87(2)(b) attempt to punch Police Officer Glover. Police Officer Maratea pulled § 87(2)(b) off Police Officer Glover, and § 87(2)(b) swung at Police Officer Maratea with a closed fist. Police Officer Maratea "defended [him]self" by striking § 87(2)(b) with a closed fist twice. Police Officer Maratea did not recall which part of § 87(2)(b)'s body he struck. Police Officer Maratea's right hand was in pain from punching § 87(2)(b) so he moved away. § 87(2)(b) was on the ground when he was placed under arrest, but Police Officer Maratea did not recall how he wound up on the ground, or whether he was forcibly placed on the ground. Police Officer Maratea did not recall Police Officer Glover punching anyone, and he denied stepping on § 87(2)(b)'s neck.

In the TRI Worksheet he prepared for § 87(2)(b) (Board Review 19), Police Officer Maratea indicated that he used a hand strike and a forcible takedown against § 87(2)(b).

None of the officers interviewed saw Police Officer Maratea step on § 87(2)(b)'s neck. None of the BWC footage obtained for this incident shows any officer stepping on § 87(2)(b)'s neck.

Patrol Guide Procedure 221-01 (Board Review 20) allows officers to use force when it is reasonable to ensure the safety of a member of the service, or when it is reasonable to place a person in custody. Factors to be considered in determining whether the use of force is reasonable include the following: the nature and severity of the crime/circumstances; actions taken by the subject; duration of the action; immediacy of the perceived threat or harm to the subject; members of service or bystanders; whether the subject is actively resisting custody; whether the subject is attempting evade arrest by flight; the number of subjects in comparison to the number of members of service; size, age and condition of the subject in comparison to the member of service; subject's violent history if known; presence of hostile crowd or agitators; and whether the subject is apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase

likelihood of violence.

According to Patrol Guide Procedure 200-02 (Board Review 21), the NYPD is committed to “treating every citizen with compassion, courtesy, professionalism, and respect.”

While officers are generally prohibited from using profanities toward civilians, they may use profanities “in the context of a dynamic situation over which [he or she is] attempting to gain control,” but may not do so when it “[serves] no legitimate purpose but to belittle” a civilian (PD v. Pichardo, DAO DCT Case Number 2015-15012, Board Review 22).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (H) – Discourtesy: At the 120th Precinct stationhouse, Police Officer Giancarlo Maratea spoke discourteously to § 87(2)(b)

Allegation (I) – Discourtesy: At the 120th Precinct stationhouse, Police Officer Giancarlo Maratea spoke discourteously to § 87(2)(b)

Allegation (J) – Abuse of Authority: At the 120th Precinct stationhouse, Police Officer Giancarlo Maratea refused to provide his name to § 87(2)(b)

§ 87(2)(b) stated that he was arrested, taken to the stationhouse, and then treated for his injuries at § 87(2)(b). When he returned to the stationhouse, he was placed in a holding area with § 87(2)(b) who asked Police Officer Maratea what happened to his bandaged hand, and Police Officer Maratea responded, “One of you idiots did this to me.” § 87(2)(b) asked Police Officer Maratea if he punched her in the face, and he replied, “If I punched you in the face, you’d look like him,” and pointed to § 87(2)(b) whose face was swollen after he had punched him earlier (see **Allegation D**). § 87(2)(b) asked Police Officer Maratea for his name, and he did not provide it.

§ 87(2)(b) made no mention of seeing § 87(2)(b) after he was taken from the stationhouse to the hospital, or of any such conversation taking place. She did not hear § 87(2)(b) ask for any officer’s name.

Police Officer Maratea stated that after the incident, he was treated at § 87(2)(b) for a torn ligament in his right hand from punching § 87(2)(b). Police Officer Maratea did not say, “One of you idiots did this to me,” in reference to his injury, and he did not recall saying, “If I punched you in the face, you’d look like him,” in reference to § 87(2)(b)’s swollen face. § 87(2)(b) did not ask Police Officer Maratea for his name.

None of the other officers interviewed witnessed this encounter at the stationhouse or heard these statements. This conversation is not captured on any of the officers’ BWCs.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Allegation Not Pleaded

In her BWC footage (Board Review 02), at runtime 02:35, Police Officer Sherlock is heard saying, “Fuck outta here,” at a low volume after she takes § 87(2)(b)’s cell phone as she is seated in the back of a police vehicle.” Police Officer Sherlock noted that she said this to herself, not § 87(2)(b) and § 87(2)(b) stated that she did not hear any officer use profanities during this incident. As such, no Discourtesy: Word allegation is pleaded against Police Officer Sherlock for this remark.

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) and § 87(2)(b) have been party (Board Review 24).
- Police Officer Ebony Glover has been a member of service for 19 years and has been a subject in four other CCRB complaints and six other allegations, of which one was substantiated.
 - 201603763 involved a substantiated allegation of Offensive Language - Gender against Police Officer Glover. The Board recommended Formalized Training and the NYPD imposed Instruction.
 - § 87(2)(g)
- Police Officer Salvatore Melfa has been a member of service for eight years and has been a subject in one other CCRB complaint and five other allegations, none of which were substantiated. § 87(2)(g)

